

FILED

NOT FOR PUBLICATION

JUN 9 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALEJANDRO VIAZ-CRUZ,

Defendant - Appellant.

No. 04-30020

D.C. No. CR-03-00157-FVS

ORDER*

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

Submitted June 8, 2006**
Seattle, Washington

Before: TALLMAN and BYBEE, Circuit Judges, and HUFF,** District Judge.

The joint motion for remand is GRANTED. The sentence for Alejandro Viaz-Cruz is VACATED, and his case is REMANDED for resentencing.

MOTION GRANTED.

*This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by the Ninth Circuit Rule 36-3.

**The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

***The Honorable Marilyn L. Huff, District Judge for the Southern District of California, sitting by designation.